

REMARKS

Claims 1-15 are pending in the above-identified application. These claims have been subjected to Unity of Invention Requirement as follows:

The Examiner has required an election in the present application between:

Group I -- claims 1-10 and 12-14 directed to a method of preparing a composition;

Group II -- claims 11 and 15 directed to a composition which is capable of being formed by the above method or which is formed in the above method.

The Office Action of April 16, 2009 requires that Applicant:

- (1) elect Group I or II in response to the Unity of Invention Requirement; and
- (2) elect a single species from the list indicated at the top of page 3 of the Office Action.

**Responsive Elections**

Applicant hereby elects the subject matter of Group I. Applicant also elects as a single species the anti-inflammatory agent tiaprofenic acid. Both of these elections are made with a traversal based on the following reasons.

**Reasons for Traversals**

First, it is respectfully requested that the Unity of Invention Requirement be withdrawn. The Office Action cites Bernard '867 (WO 03/030867) in support of the assertion that there fails to be a "special technical feature" which allows for unity of Groups I and II. It is respectfully

submitted that Bernard '867 is distinguished from the method of the present invention as described at pages 4-5 of the present specification. Further, it is submitted that the elected subject matter constitutes a method for forming a product, wherein the product constitutes the non-elected subject matter. Thus, Groups I and II are sufficiently related so as to include overlapping issues such that the Examiner does not face any undue burden to examine all of the subject matter of the present claims. Therefore, it is requested that this Requirement be withdrawn.

Second, it is respectfully submitted that the Election of Species Requirement should be withdrawn as the scope and number of species disclosed in the present application does not constitute a significant burden on the Examiner to proceed with the examination of the entire scope thereof. It is further requested that the Examiner, upon identifying allowable subject matter, proceed to examination of at least a reasonable number of species. Thus, it is requested that this Requirement be withdrawn.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Andrew D. Meikle, Registration No. 32,868 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: May 18, 2009

Respectfully submitted,

By   
Andrew D. Meikle  
Registration No.: 32,868  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant